

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

SUPER 8 MOTELS, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 07-cv-0540-MJR
)	
RAMESH K. PATEL,)	
)	
Defendant.)	

ORDER REGARDING IMPENDING DISMISSAL

REAGAN, District Judge:

In July 2007, Super 8 Motels, Inc. filed suit in this Court, alleging that Ramesh Patel breached the terms of a Franchise Agreement, thereby entitling Super 8 to an accounting, liquidated damages of \$78,000 (and/or actual damages for premature termination of the agreement), another \$2000 in "recurring fees," plus attorneys' fees, costs and interest. Super 8 invoked subject matter jurisdiction under the federal diversity statute, 28 U.S.C. § 1332.

On threshold review, the Court now determines that the parties are completely diverse (Defendant Patel is an Illinois citizen; Plaintiff Super 8 is a South Dakota and New Jersey citizen), and the amount in controversy suffices. The case was filed (not removed) here, so the "forum defendant" rule of 28 U.S.C. 1441(b) presents no obstacle. Venue appears to be proper as well.

Defendant Patel failed to move, answer or otherwise respond to the complaint, and Super 8 secured a Clerk's entry of default against Patel, pursuant to

Federal Rule of Civil Procedure 55(a). That was two months ago, however, and Super 8 has not - in the interim - moved for default judgment under Rule 55(b).

Accordingly, the Court **DIRECTS** Super 8 - no later than November 23, 2007 - to take one of the following actions: (a) file a motion for default judgment and submit to the undersigned Judge's proposed document inbox¹ a detailed Proposed Order which delineates the precise relief sought (accounting, liquidated damages, etc.); (b) file a motion to voluntarily dismiss this case (if, for instance, the parties have settled or otherwise resolved this matter); or (c) file a memorandum explaining why neither such step can be taken at this time.

If Super 8 fails to take one of the three above-outlined actions by November 23, 2007, the Court **WILL DISMISS THIS ACTION** for want of prosecution.

IT IS SO ORDERED.

DATED this 7th day of November 2007.

s/ Michael J. Reagan
Michael J. Reagan
United States District Judge

¹ MJRpd@ilsd.uscourts.gov